

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KARL D. DREW,
Petitioner,
v.
JIM ROBERTSON, Warden,
Respondent.

Case No. [21-cv-01889-YGR](#) (PR)

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL; AND
SUA SPONTE GRANTING
EXTENSION OF TIME TO PAY
FILING FEE**

Petitioner filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and moved to proceed *in forma pauperis* (“IFP”). On May 13, 2021, the Court found Petitioner had sufficient funds in his prison trust account to pay the \$5.00 habeas corpus filing fee and issued an Order denying the IFP application and giving Petitioner twenty-eight days in which to pay the filing fee or have this case dismissed. The filing fee is currently due on June 10, 2021.

On May 27, 2021, Petitioner filed a letter asking this Court to appoint an attorney to assist him. Dkt. 11.

The Sixth Amendment’s right to counsel does not apply in habeas corpus actions. *See Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir.), *cert. denied*, 479 U.S. 867 (1986). Unless an evidentiary hearing is required, the decision to appoint counsel is within the discretion of the district court. *See Knaubert*, 791 F.2d at 728; *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). An evidentiary hearing does not appear necessary at this time, and there are no exceptional circumstances to warrant appointment of counsel. Accordingly, Petitioner’s motion for appointment of counsel is DENIED without prejudice. Dkt. 11.

The Court *sua sponte* GRANTS Petitioner an extension of time to pay the filing fee. The time Plaintiff shall pay the filing fee is extended **twenty-eight (28) days** from the date this Order.

**FAILURE TO FILE A TIMELY RESPONSE IN ACCORDANCE WITH THIS
ORDER BY PAYING THE FULL FILING FEE WILL RESULT IN THE DISMISSAL OF
THIS ACTION WITHOUT FURTHER NOTICE TO PETITIONER.**

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This Order terminates Docket No. 11.

IT IS SO ORDERED.

Dated: June 4, 2021


JUDGE YVONNE GONZALEZ ROGERS
United States District Judge